

10. (Original) A system as claimed in claim 1, wherein:  
said sample vessel holder is adapted to maintain said sample vessel at said  
angle which is within the range of about 15 degrees to about 25 degrees with  
respect to the horizontal.

11. – 18. (Cancelled)

**REMARKS**

Claims 1-4 and 6-10 are in the present application.

Applicants have amended Claim 1 in order to further clarify the subject matter of the present invention. Applicants have inserted the term "media" after the term "liquid" in Claim 1. Support for this amendment is contained in the title of the present application and in paragraphs 2, 6, and 8 of the Specification. Support for restricting the vessel to a sample vial is contained in paragraphs 5, 6, and 7 of the Specification. Applicants have also cancelled Claim 5 and incorporated the subject matter therein into Claim 1.

The main Claim 1 as amended is directed to a system for stirring a solid suspended in a liquid media in a sample vessel, said system comprising: a sample vessel which is in the form of a sample vial; a sample vessel holder, adapted to receive at least one said sample vessel and maintain said sample vessel in a position such that the longitudinal axis of said sample vessel extends at an angle substantially less than 90 degrees with respect to the horizontal; a stirrer within said sample vessel wherein said stirrer includes a ferrous metal; and a magnet driver, adapted to move a magnet proximate to an outer surface of said sample vessel to permit said magnet to impose a magnetic influence on said ferrous metal in said stirrer to move said stirrer in said sample vessel, and wherein said magnet rotates about an axis 90 degrees with respect to the longitudinal axis of said sample vessel.

Claims 1 and 6-10 have been rejected under 35 U.S.C. §102 (b) as being allegedly anticipated by IIg. IIg does not teach or anticipate the claimed invention as amended.

Ilg uses a bag as the sample vessel (see Ilg, Col. 8, Lines 45-52). This is different from a vial. Second, Ilg uses a magnetic stirrer inside the bag (see Ilg, Col. 8, Line 46). The claimed invention uses a non-magnetic ferrous metal in the sample vessel. In addition, it is clear that Ilg teaches that the "vessel" is held on a board (see Ilg Figs. 1, 2, 8, 11, 12 and Col. 8, Line 59). The vessel holder in the present invention is a cylindrical structure (see Fig. 1), not a board. Thus the claimed invention as amended is clearly differentiated from Ilg.

Although the claims have been rejected as anticipated under 35 U.S.C. § 102 on the disclosure of Ilg, it is axiomatic that anticipation under Section 102 requires that the prior art reference disclose every element of the claim. In re King, 801 F.2d 1324, 1326, 231 U.S.P.Q. 136, 138 (Fed. Cir. 1986). Thus there must be no differences between the subject matter of the claim and the disclosure of the prior art reference. Stated in another way, the reference must contain within its four corners adequate directions to practice the invention. The corollary of this rule is equally applicable. The absence from the reference of any claimed element negates anticipation. Kloster Speedsteel AB v. Crucible Inc., 793 F.2d 1565, 1571, 230 U.S.P.Q. 81, 84 (Fed. Cir. 1986).

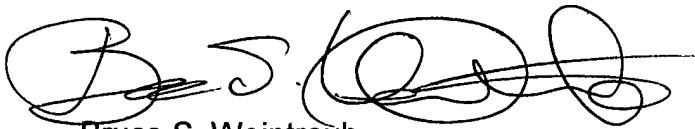
Here it is clear that Claim 1 as amended and the rejected claims dependent thereon distinctly differ from Ilg. Clearly, Kloster Speedsteel shows that Ilg falls short of the statutory standard of 35 U.S.C. Section 102. Claims 1-4 and 6-10 are not anticipated by Ilg. Withdrawal of the instant rejection under Section 102 is therefore respectfully requested.

Claims 1-10 have been rejected under 35 U.S.C. § 103(a) as allegedly rendered unpatentable by Ilg in view of Rosinger.

Rosinger shows that the stirrer therein is a magnet (see Rosinger, Fig 2, where the stirrer is labeled with magnetic poles, and Col. 2 Line 50, where the stirrer is called a permanent magnet). Thus, Ilg in combination with Rosinger do not achieve the teachings of the claimed invention as amended. Withdrawal of the instant rejection under Section 103 is therefore respectfully requested.

Thus, in view of the present Amendment and Remarks, the claims of the present application are believed to be in condition for allowance. Early notice thereof is respectfully requested by Applicants.

Respectfully submitted,



Bruce S. Weintraub  
Attorney for Applicants  
Registration No. 34,277

Becton Dickinson and Company  
1 Becton Drive  
Franklin Lakes, New Jersey 07417  
(201) 847-7096

#77765